

MDR Tracking Number: M5-04-1150-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-19-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The hot/cold packs, therapeutic procedures, therapeutic exercises, office visits, and special reports were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 1/20/03 through 2/10/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 29th day of March 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

March 22, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

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IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

This patient was injured when he was lifting a dolly while working as a truck driver. He had an immediate onset of low back pain on both sides and pain into the right thigh. MRI revealed a disc herniation at the level of L2-3 as well as a possible herniation at L1-2. Physical medicine treatment was rendered by ___ to include chiropractic, passive and active therapies. EMG was negative for radiculopathies. He was treated with a series of 3 epidural steroid injections by ___ and improved with each injection. He was examined on a RME by ___ and it was recommended that he return to work with restrictions. A designated doctor on the case, ___ found that the patient was not at MMI and recommended the 3rd ESI and myelogram. The designated doctor was concerned that the patient would require surgical intervention.

DISPUTED SERVICES

The carrier has denied the medical necessity of Hot/Cold packs, therapeutic procedures, therapeutic exercises, office visits and special reports from January 20, 2003 to February 10, 2003.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The treatment rendered was reasonable considering that this patient was still in the sub-acute phase of care and was responding to the care rendered by the team that was delivering treatment. The care certainly complies with existing guidelines and the records indicate that it was appropriately documented. A lumbar disc herniation which is treated conservatively may go on for a year or more, as was stated in the report of the RME doctor and the treating doctor certainly was not excessive in this particular case. As a result, the treatment rendered is found to be reasonable and necessary by the reviewer.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,